

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the Los Angeles County Metropolitan Transportation Authority for an order authorizing the construction of three, two-track at-grade crossings for the Eastside Corridor Light Rail Transit Line across Gage Avenue, across the SR-60 Freeway on- and off-ramp traffic and across Downey Road in the County of Los Angeles.

Application 04-08-037
(Filed August 27, 2004)

O P I N I O N**Summary**

This decision grants Los Angeles County Metropolitan Transportation Authority's (MTA) request for authority to construct in Third Street, as part of MTA's Eastside Corridor Light Rail Transit Line (ELRL) project, three two-track at-grade highway-rail crossings (crossings), at the intersections of Gage Avenue, State Route (SR) 60 Freeway on- and off-ramps, and Downey Road, in an unincorporated area of Los Angeles County (County).

Discussion

MTA requests authority to construct, in Third Street, three crossings, at the intersections of Gage Avenue, SR-60 Freeway on- and off-ramps, and Downey Road. The table in Appendix A attached to the order lists each proposed crossing and the identifying CPUC crossing number.

Based on the light rail transit operating plan, the ELRL train frequency will be one train every five minutes in each direction during peak times (Monday

through Friday, except holidays) and one train every 12 minutes during non-peak times. The ELRL will have a double track with overhead power distribution that will operate electrically powered cars 90 feet in length. As stated in General Order (GO) 143-B, Section 9.04(b)(4), the alignment classification is semi-exclusive. This alignment classification describes the situation of tracks “Within street right-of-way, but protected by mountable curbs, striping, or lane designation.” Furthermore, trains will operate at a speed no greater than the maximum allowable automotive speed of the streets traveled with a maximum speed of 35 miles per hour. MTA will utilize an over speed protection system in the event a train operator exceeds the 35 miles per hour speed and the operator does not respond to the over speed indication. In such instances, a train will stop automatically.

All three crossings will have traffic signals for motorists and pedestrians and dedicated train signals (lunar white bar indications) for the train operators. To further enhance safety on the ELRL, the highway crossings will have train-actuated light emitting diode (LED) warning signs to give motorists and pedestrians warning of approaching trains. The train-actuated LED warning signs will flash and illuminate the silhouette of a train to warn of an approaching train. The three phases of the dedicated train signals are analogous to the three-colored phases used in traffic signals: a horizontal bar indicates a “red” or stop phase; a diagonal bar indicates a “yellow” or prepare to stop phase; and a vertical bar indicates a “green” or proceed phase. For intersections within its jurisdiction, County will coordinate traffic signals to the extent possible to provide priority to train traffic. MTA, in cooperation with County, will provide traffic signal preemption, for the crossings located at the SR-60 Freeway on- and off-ramps and Downey Road traffic intersections with Third Street.

In accordance with two Master Cooperative Agreements, State of California Department of Transportation (Caltrans) and County separately and MTA will bear construction and design costs of the project. Both agreements state that MTA and County will cooperate in the design, construction, operation, and maintenance of the ELRL, which includes the proposed crossings. MTA and County also will cooperate with the construction of the ELRL track in the center of Third Street with the proposed traffic signals and warning signs.

MTA will operate and maintain the tracks, traffic signal detector loops in the track area, facilities, appurtenances, and right-of-way. County and Caltrans, in accordance with GO 72-B, will share costs associated with the maintenance of the proposed crossings. County will bear the costs associated with maintenance of the train and vehicle traffic signals at the proposed crossings and with mountable curbs to prevent vehicles from accessing the trackway.

MTA is the lead agency for this project under California Environmental Quality Act of 1970 (CEQA), as amended in 1982 and as stated in Public Resources (PR) Code Section 21000 et seq. MTA prepared a Final Supplemental Environmental Impact Statement/Final Subsequent Environmental Impact Report (Final SEIS/SEIR), assigned State Clearinghouse (SCH) Number 1999081061, for the project on January 4, 2002. On February 28, 2002, MTA Board of Directors approved the project and adopted the Final SEIS/SEIR. On March 1, 2002, in compliance with PR Code Section 21108 and 21152, MTA filed a Notice of Determination (NOD) with the State Clearinghouse and Los Angeles County Clerk. The NOD is attached to Appendix C of the order. The NOD concluded that the project will have a significant effect on the environment and mitigation measures were made a condition for project approval. Findings were made

pursuant to the provisions of CEQA, and MTA adopted a “Statement of Overriding Considerations” (SOC) for this project.

The Commission is a responsible agency for this project under CEQA. CEQA requires that the Commission consider the environmental consequences of a project subject to its discretionary approval. In particular, to comply with CEQA, a responsible agency must consider the lead agency’s Environmental Impact Report or Negative Declaration prior to acting upon or approving the project (CEQA Guideline Section 15050(b)). The specific activities that a responsible agency must conduct are contained in CEQA Guideline Section 15096.

The Commission has reviewed the lead agency’s environmental documents, and we find them adequate for our decision-making purposes. These documents include the Final SEIS/SEIR for the Los Angeles Eastside Corridor (SCH No. 1999081061), prepared jointly by the United States Department of Transportation – Federal Transit Administration and MTA. In considering this document, we note that the Final SEIS/SEIR developed and evaluated a range of alternatives as well as a “No-Build Alternative.” The Final SEIS/SEIR included an analysis of potential environmental impacts related to the project and alternatives related to, among other items, transportation, land use and development, land acquisition/displacement and relocation, air quality, noise and vibration, and safety. Safety, transportation, and noise are within the scope of the Commission’s permitting process. The Final SEIS/SEIR (Volume I) contains statements pertaining to the affected environment, methodology for impact evaluation, impacts, and mitigation. MTA identified environmental impacts related to safety, transportation, and noise.

Potential safety impacts relate to the number of light rail trains operating during weekday peak hours and the risk of collisions with vehicles on the public roadway portion of the system. To mitigate the potential impacts to less-than-significant levels, MTA will implement mitigation measures, including working with the City and County traffic control departments; minimizing turns by vehicles across tracks; installing traffic controls, such as automatic signs and intersection surveillance cameras; and providing safety lighting where there is conflict between the movement of pedestrians, vehicles, and trains.

Potential transportation impacts relate to areas of vehicular back-ups during peak hours at certain intersections. To mitigate most impacts to less-than-significant levels, adopted mitigation measures include modified turn lanes and parking restrictions at specified locations.

Potential noise impacts are anticipated at various one-family and two-family residential buildings. Adopted mitigation measures to reduce most impacts to less-than-significant levels include rail grinding and replacement, rail vehicle wheel truing and replacement, vehicle maintenance, and sound insulation at impacted buildings.

The “Findings Of Fact And Statement Of Overriding Considerations,” (FFSOC) contains statements pertaining to impacts, mitigation measures, and findings for each impact. The FFSOC categorized these impacts as “Significant Effects Determined to be Mitigated to a Less Than Significant Level,” “Significant Effects That Are Not Mitigated to a Less Than Significant Level,” and “Effects Determined Not to be Significant or Less Than Significant.” Included in the FFSOC are the SOC and “Mitigation Monitoring Plan” (MMP). The MTA Board of Directors adopted the SOC to approve the project despite significant and unavoidable adverse environmental impacts identified in the Final SEIS/SEIR

and FFSOC related to transportation and noise. Specifically, MTA determined that transportation mitigation measures adopted for the project would not fully reduce impacts to less-than-significant levels for residual traffic back-ups at a limited number of intersections. In addition, while adopted noise mitigations would fully mitigate noise impacts in interior areas of various one-family and two-family residential buildings, the mitigations would not reduce impacts to less-than-significant levels for the exterior areas of those buildings.

The MTA Board of Directors found that the benefits of the proposed project outweigh the unavoidable significant adverse environmental impacts. The Board of Directors determined that each of the separate benefits identified in the SOC, in itself and independent of other project benefits, is a basis for overriding all unavoidable impacts identified in the Final SEIS/SEIR and noted in the Board of Directors' findings. Specific overriding benefits resulting from the project include restoring the balance of regional capital transportation expenditures, improving access for area residents to local destinations and regional rail and bus systems, providing convenient and reliable transportation, and decreasing annual regional vehicle miles traveled.

In reviewing the Final SEIS/SEIR and MMP, we find that with respect to issues within the scope of our permitting process, MTA, where possible, adopted feasible mitigation measures to lessen the significant environmental impacts to less-than-significant levels. We will adopt MTA's findings and mitigations for purposes of our approval.

With respect to the SOC, we find that the Board of Directors enumerated several significant benefits associated with the proposed project which appeared, on balance, to reasonably justify approval of the project despite certain

significant and unavoidable impacts. Therefore, we accept and adopt the findings of the SOC for purposes of our approval.

MTA examined several alternatives to constructing at-grade crossings. Alternatives considered include depressing the street cross traffic below the tracks, raising the street cross traffic above the tracks, depressing the tracks below the street cross traffic, and raising the tracks above the street cross traffic. Changing the street cross traffic grade would entail the redesign of the Gage Avenue, SR-60 Freeway on- and off-ramps, and Downey Road intersections with Third Street and the redesign of Third Street at each of the intersections. Such reconstruction would entail additional right-of-way acquisition, which would cause extensive negative impact on the use of existing residential, business, and commercial structures in the area. Raising the tracks across the intersections would require a long aerial structure above Gage Avenue, the SR-60 Freeway on- and off-ramps, and Downey Road. Lowering the tracks beneath the intersections would entail, due to the roadway and track profile in the vicinity of the proposed crossing sites, constructing a depressed track section for a length of approximately 3300 feet. Each of these alternatives would involve excessive disproportionate costs and would be contrary to the purpose of the light rail concept to create a rail line at a reasonable cost.

The Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section (RCES) has inspected the sites of the three proposed crossings. After reviewing the need for and the safety of the proposed crossings, RCES recommends that the Commission grant MTA's requests.

The Application is in compliance with the Commission's filing requirements, including Rule 40 of Rules of Practice and Procedure, which relates to the construction of railroad tracks across public highways. The site

map and detailed drawings of the three proposed crossings are shown in Appendix B attached to the order.

Categorization and Need for Hearings

In Resolution ALJ 176-3138, dated September 2, 2004, and published in the Commission Daily Calendar on September 3, 2004, the Commission preliminarily categorized the Application as ratesetting, and preliminarily determined that hearings were not necessary. Since no protests were filed, this preliminary determination remains correct. It is not necessary to revise the preliminary determinations made in Resolution ALJ 176-3138.

Waiver of Comment Period

This Application is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), we waive the otherwise applicable 30-day period for public review and comment.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. The Commission published Notice of Application 04-08-037 in the Commission Daily Calendar on August 30, 2004. There are no unresolved matters or protests; a public hearing is not necessary.
2. MTA requests authority, under Public Utilities Code Sections 1201-1205, to construct, as part of MTA's ELRL project in Third Street, three crossings at the intersections of Gage Avenue, SR-60 Freeway on- and off-ramps, and Downey Road, in Los Angeles County.
3. Public convenience and necessity require construction of the three proposed crossings of MTA's ELRL tracks.
4. MTA is the lead agency for this project under CEQA, as amended.
5. In approving the project on February 28, 2002, the MTA Board of Directors adopted the Final SEIS/SEIR for the Los Angeles Eastside Corridor (SCH No. 1999081061) and found that "The project will have a significant effect on the environment." Mitigation measures were made a condition of the approval of the project. Findings were made pursuant to the provisions of CEQA. An SOC was adopted for this project.

6. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's Final SEIS/SEIR, NOD, and SOC. We find these documents to be adequate for our decision-making purposes.

7. Safety, transportation and noise are within the scope of the Commission's permitting process.

8. For the approved project, the lead agency identified environmental impacts related to safety, transportation and noise.

Conclusions of Law

1. With respect to significant impacts from safety, transportation and noise, we find that the lead agency adopted feasible mitigation measures where possible to substantially lessen the environmental impacts to a less-than-significant level. With respect to the significant and unavoidable environmental impacts, we find that MTA enumerated several significant benefits to justify project approval. Therefore, we also adopt the SOC for purposes of our approval.

2. The Application is uncontested and a public hearing is not necessary.

3. The Application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. Los Angeles County Metropolitan Transportation Authority (MTA) is authorized to construct, in Third Street, three two-track at-grade highway-rail crossings (crossings), at the intersections of Gage Avenue, State Route (SR) 60 Freeway on- and off-ramps, and Downey Road, of MTA's Eastside Corridor Light Rail Transit Line (ELRL), in Los Angeles County (County), at the locations and substantially as described in and as shown by plans attached to the

Application, as described in Appendix A attached to this order and as shown by plans in Appendix B attached to this order.

2. MTA, in cooperation with County, shall ensure, at each of the three crossings, the installation of traffic signals for motorists and pedestrians and dedicated train signals (lunar white bar indications) for train operators. To further enhance safety on the ELRL, MTA, at each of the three crossings, shall install train-actuated light emitting diode warning signs to give motorists and pedestrians warning of approaching trains.

3. For intersections within its jurisdiction, County shall coordinate traffic signals to the extent possible to provide priority to train traffic. MTA, in cooperation with County, shall provide traffic signal preemption, for the crossings located at the SR-60 Freeway on- and off-ramps and Downey Road traffic intersections with Third Street.

4. In accordance with the two Master Cooperative Agreements, State of California Department of Transportation (Caltrans) and County separately and MTA shall bear construction and design costs of the project. MTA, County, and Caltrans shall bear costs more particularly as follows:

a. MTA shall operate and maintain the tracks, traffic signal detector loops in the track area, facilities, appurtenances, and right-of-way.

b. County and Caltrans shall share costs associated with maintenance of the three crossings in accordance with General Order 72-B.

c. County shall bear the costs associated with maintenance of the train and vehicle traffic signals at the three crossings and the barriers to prevent vehicles from accessing the trackway.

5. Within 30 days after completion of the work under this order, MTA shall notify the Commission's Consumer Protection and Safety Division – Rail

Crossings Engineering Section in writing, by submitting a completed standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations), of the completion of the authorized work.

6. This authorization shall expire if not exercised within two years unless the Commission extends the time or if the parties do not comply with the above conditions. The Commission may revoke or modify authorization if public convenience, necessity or safety so require.

7. The Commission grants the Application as set forth above.

8. Application 04-08-037 is closed.

This order becomes effective 30 days from today.

Dated _____, at San Francisco, California.

APPENDIX A

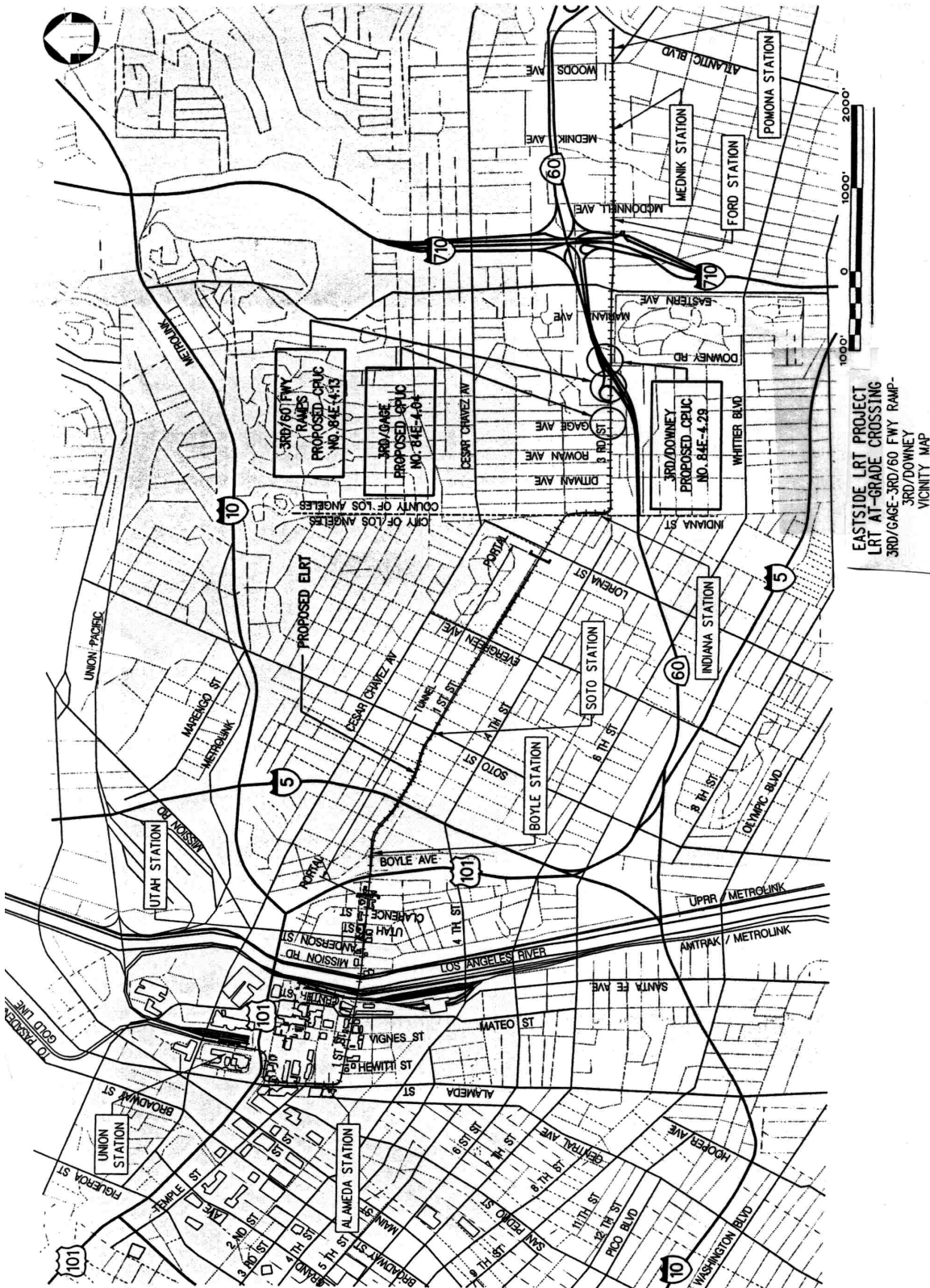
As part of the project to construct the Eastside Corridor Light Rail Transit Line, Los Angeles County Metropolitan Transportation Authority requests authority to construct, in Third Street, three two-track at-grade highway-rail crossings (crossings), at the intersections of Gage Avenue, State Route (SR) 60 Freeway on- and off-ramps, and Downey Road, in an unincorporated area of Los Angeles County. Application 04-08-037, the order, the table below, and the plans attached to Appendix B attached to the order indicate the full details of the three crossings.

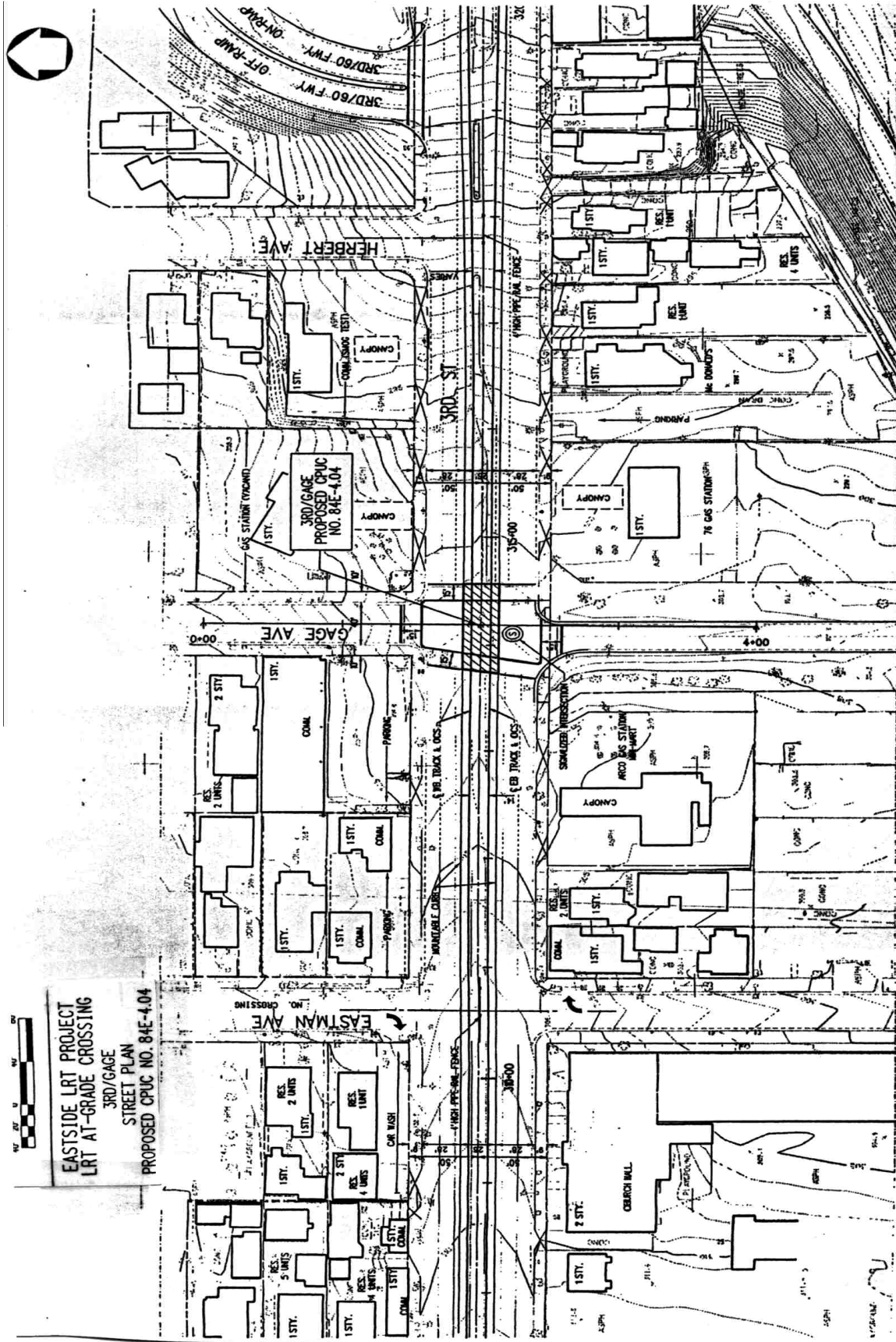
At-grade crossing location	CPUC Crossing No.
Gage Avenue crossing	84E-4.04
SR-60 Freeway on- and off-ramp crossing	84E-4.13
Downey Road crossing	84E-4.29

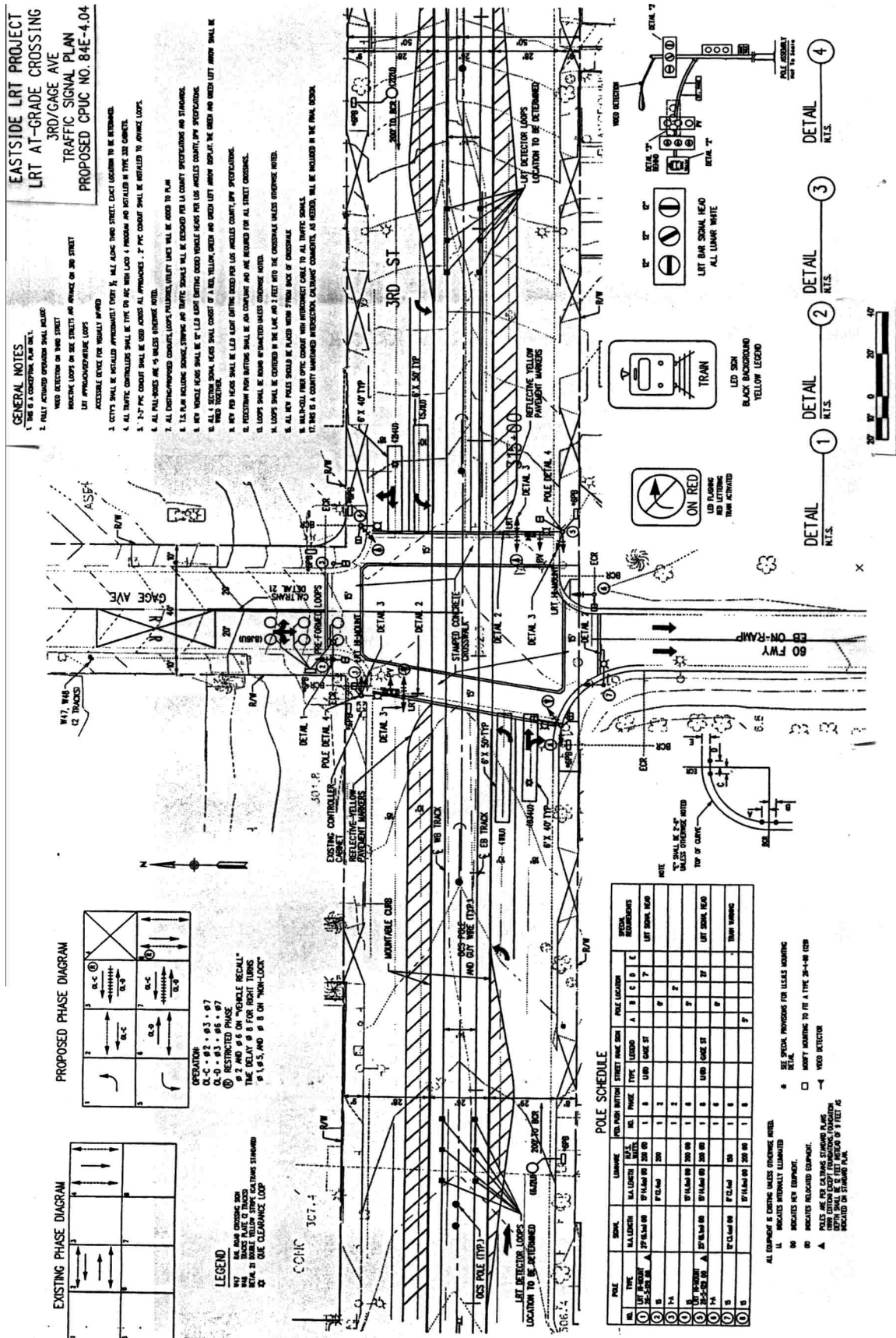
APPENDIX B

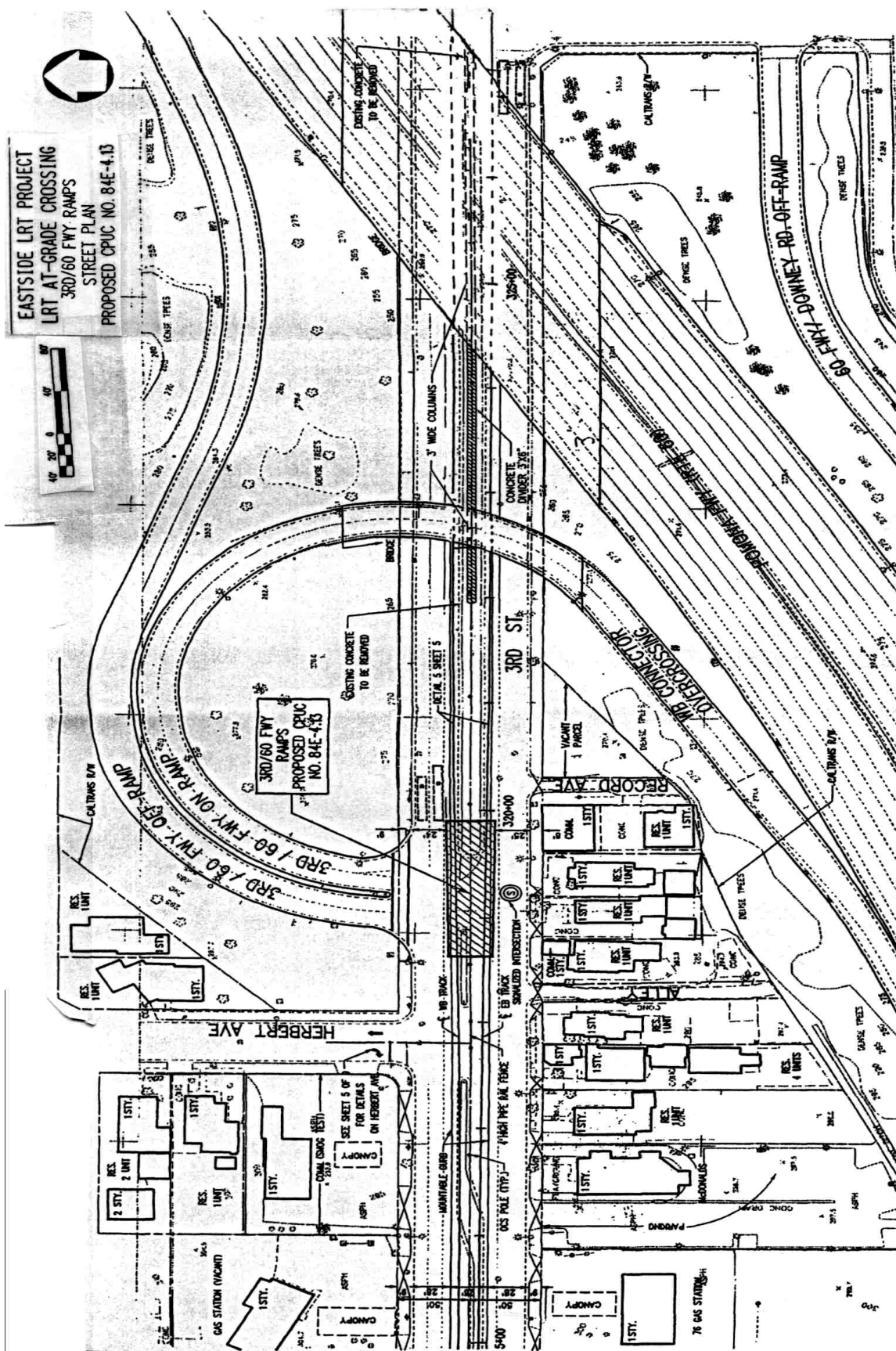
PLANS

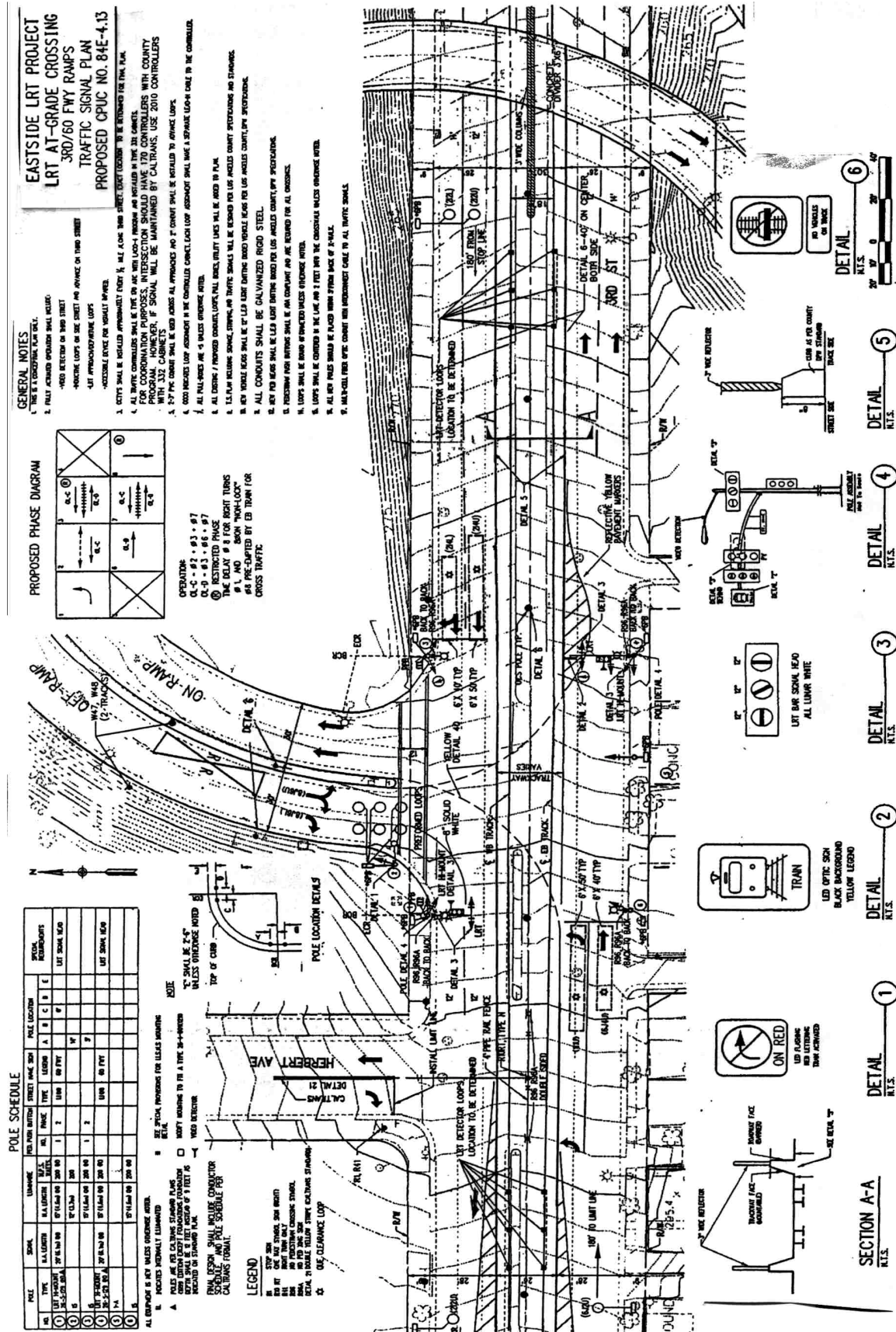
PLANS

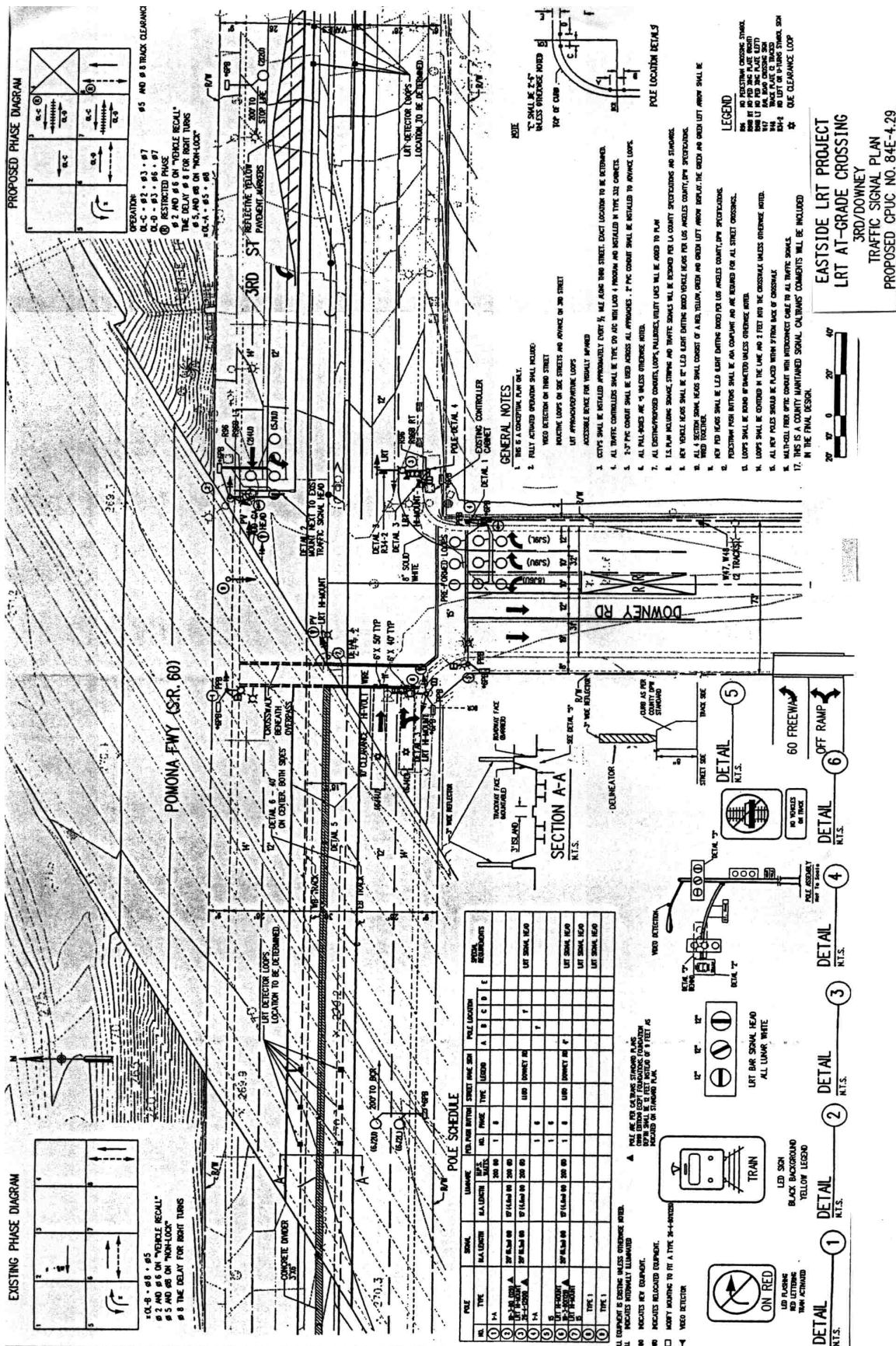












APPENDIX C
ENVIRONMENTAL DOCUMENTS

